

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

TIMOTHY WHITE,
Plaintiff,

v.

REGIONAL ADJUSTMENT BUREAU,
INC. D/B/A RAB, INC.,
Defendant.

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Case No. 3:11-cv-01817-B

**PLAINTIFF’S REPLY IN SUPPORT OF PLAINTIFF’S EMERGENCY MOTION FOR
EXTENSION OF TIME AND FOR LEAVE TO MODIFY SCHEDULING ORDER**

Defendant has moved for summary judgment against Plaintiff on all his claims, including his claim under the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227. Defendant argues that it did not use an automatic telephone dialing system, and that it placed calls to Plaintiff manually. (See e.g., Doc. 37-1 at 16-18). However, Defendant withheld information in response to Plaintiff’s discovery requests, which were reasonably calculated to lead to the discovery of admissible evidence on these issues.

First, it redacted certain portions of its agreement with its creditor client. The redacted information may be relevant to whether Defendant used an automatic telephone dialing system to contact Plaintiff. *See, e.g., Lee v. Credit Mgmt., LP*, 846 F. Supp. 2d 716, 730 (S.D. Tex. 2012) (holding contract between creditor and debt collector sufficient to create genuine issue of material fact as to whether calls were placed with an automatic telephone dialing system when the contract expressly required the debt collector to contact customers by predictive dialer). Defendant has not yet produced an unredacted copy of its contract, and Plaintiff is entitled to this information in order to respond to Defendant’s motion for summary judgment.

Second, information regarding Defendant’s automatic telephone dialing system, or regarding Plaintiff’s other claims, may be present in Defendant’s policy and procedure manual, which the

Court also ordered Defendant to produce. Third, the Court further ordered Defendant to produce its corporate representative prepared to testify regarding that document. Plaintiff is entitled to question Defendant's representative about information contained in the document and to obtain complete information on Defendant's knowledge. An extension to respond to Defendant's motion for summary judgment is therefore warranted.

Defendant does not oppose Plaintiff's request to extend the deadline to file a motion for summary judgment. Defendant has provided no reason why it would be prejudiced or otherwise why it is unable to consent to Plaintiff's request for an extension of time to respond to Defendant's motion for summary judgment.

WHEREFORE, Plaintiff respectfully requests the Court to grant Plaintiff's motion for an extension of time.

Dated: August 24, 2012.

Respectfully submitted,

WEISBERG & MEYERS, LLC

By: /s/ Noah D. Radbil

Noah D. Radbil
Texas Bar No. 24071015
noah.radbil@attorneysforconsumers.com
WEISBERG & MEYERS, LLC
Two Allen Center
1200 Smith Street, Sixteenth Floor
Houston, Texas 77002
Telephone: (888) 595-9111
Facsimile: (866) 317-2674

Attorneys for Plaintiff Timothy White
TIMOTHY WHITE

CERTIFICATE OF SERVICE

I hereby certify that on August 24, 2012, I filed the foregoing document electronically filed with the clerk of the U.S. District Court for the Northern District of Texas, Dallas Division, using the electronic case filing system of the court, which will send notification of such filing to:

Robbie Malone
Northpark Central, Suite 1850
8750 North Central Expressway
Dallas, Texas 75231

By: /s/ Noah D. Radbil
Noah D. Radbil